

### **REMARKS**

Claims 1-13 and 15-20 are pending in the application. The Examiner's reconsideration of the rejections is respectfully requested in view of the amendments and remarks.

A Response to the Request for Information Under 37 CFR §1.105 is attached hereto.

#### **OBJECTIONS:**

The drawings have been objected to as failing to comply with 37 CFR §1.84(p)(5) because they include certain reference characters (510, 515, and 610) not mentioned in the description.

Respectfully, reference characters 510 and 515 appear at page 15, line 19 and page 16, line 4, respectively.

The specification has been amended to correct the recitation of reference character 610 (amending "605" to "610").

Reconsideration of the objection is respectfully requested.

The specification has been objected to for an informality - the word "teachers" at page 6, line 11 has been amended to "teachings" as suggested by the Examiner. Reconsideration of the objection is respectfully requested.

Claim 5 has been objected to for informalities. Claim 5 has been amended to clarify certain limitations, wherein Claim 5 recites, "estimating a likelihood comprises determining a

demand forecast and comparing the demand forecast and the planned sales volume.”

Reconsideration of the objection is respectfully requested.

#### REJECTIONS:

Claim 5 has been rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which application regards as the invention.

Claim 5 has been amended to clarify certain limitations. Claim 5 recites, “estimating a likelihood comprises determining a demand forecast and comparing the demand forecast and the planned sales volume.” Reconsideration of the rejection is respectfully requested.

Claims 1-3, 5, 7-10, 15, 16, 18, and 20 have been rejected under 35 USC 103(a) as being unpatentable over Ahmed (A Multi-Stage Stochastic Integer Programming Approach for Capacity Expansion under Uncertainty) in view of Bichler (Applications of Flexible Pricing in Business-to-Business Electronic Commerce). The Examiner stated essentially that the combined teachings of Ahmed and Bichler teach or suggest all the limitations of Claims 1-3, 5, 7-10, 15, 16, 18, and 20.

Claims 1, 15 and 20 are independent.

Claims 1 and 20 claim, *inter alia*, “formulating a multistage stochastic program that generates a quantity of each of the multiple products to be sold in each of the multiple time periods and a recommendation for whether to accept an order for at least one of the multiple products at a time when demand exceeds a planned sales volume at least one of the multiple time periods.” Claim 15 claims, *inter alia*, “a stochastic programming engine for formulating and

executing a multistage stochastic program that generates (i) a strategic decision model for prescribing a quantity of each product to be sold in each of the multiple time periods, and (ii) a tactical decision model for generating recommendation for whether to accept an order for at least one of the multiple products at a time when demand exceeds a planned sales volume for at least one of the multiple time periods; and a trigger engine for estimating a likelihood that the realized demand for at least one of the multiple time periods exceeds the planned sales volume.”

Ahmed teaches methods for strategic level decision making for the multi-resource capacity expansion problem (see page 1, Introduction, first sentence and page 2, Formulation, first paragraph). Ahmed does not teach or suggest tactical level decision making - that is, Ahmed does not teach or suggest “recommendation for whether to accept an order for at least one of the multiple products at a time when demand exceeds a planned sales volume” as claimed in Claims 1, 15, and 20. Ahmed’s purpose is to satisfy the demand of a product family (see page 2, last 2 lines, to page 3, line 1) - indeed, Ahmed does not include a discussion of a case where demand exceeds supply. Therefore, Ahmed fails to teach all of the limitations of Claims 1, 15, and 20.

Bichler teaches how to set allocations and recommend prices for channels (see page 298, right col., lines 10-15). Bichler does not teach or suggest tactical level decision making - that is, Bichler does not teach or suggest “recommendation for whether to accept an order for at least one of the multiple products at a time when demand exceeds a planned sales volume” as claimed in Claims 1, 15, and 20. While Bichler teaches mechanisms for flexible pricing on the buy and sell sides (see for example, page 290, Figure 1), Bichler is silent as to recommendations about whether to accept an order. Therefore, Bichler fails to cure the deficiencies of Ahmed

The combined teachings of Ahmed and Bichler teach methods for strategic level decision making. The combined teachings of Ahmed and Bichler fail to teach or suggest a tactical level

decision recommendation - whether to accept an order - essentially as claimed in Claims 1, 15, and 20.

Claims 2, 3, 5, and 7-10 depend from Claim 1. Claims 16 and 18 depend from Claim 15. The dependent claims are believed to be allowable for at least the reasons given for the respective independent claims. The Examiner's reconsideration of the rejection is respectfully requested.

Claims 4, 6, 11-14, 17, and 19 have been rejected under 35 USC 103(a) as being unpatentable over Ahmed/Bichler as applied to Claims 1 and 10, and further in view of Santos (US 2002/0143665). The Examiner stated essentially that the combined teachings of Ahmed/Bichler and Santos teach or suggest all the limitations of Claims 4, 6, 11-14, 17, and 19.

Claims 4, 6, and 11-13 depend from Claim 1. Claims 17 and 19 depend from Claim 15. The dependent claims are believed to be allowable for at least the reasons given for the respective independent claims. Claim 14 has been canceled. Reconsideration of the rejection is respectfully requested.

#### OFFICIAL NOTICE:

The Examiner has taken Official Notice with respect to portions of Claims 8, 10, 12-14, 16, and 17. Please consider the following:

Applicants respectfully traverse the finding of Official Notice with respect to Claims 12-14, 16, and 17.

Referring to Claims 12 and 13; methods for calculating a confidence level are claimed, more particularly, using a normal distribution program and a gamma distribution program,

respectively, depending on a counter. The finding of Official Notice relies on the Applicant's own disclosure. Respectfully, at a minimum the use of the disclosure evidences the use of hindsight in establishing the rejection. Further, the use of confidence levels and confidence intervals in conjunction with a counter is not a fact capable of instant and unquestionable demonstration as being well-known – indeed, the cited references are silent on the use of a counter.

Referring to Claim 14 (canceled herein); the determination of a confidence interval using a confidence level is not believe to be a fact capable of instant and unquestionable demonstration as being well-known. For example, Santos treats the two values separate and independent of one another (see paragraph [0087] wherein Santos uses a Monte Carlo simulation to determine a confidence level).

Referring to Claim 16; the use of decision variables by trigger engine for estimating a likelihood is not believe to be a fact capable of instant and unquestionable demonstration as being well-known. The finding of Official Notice relies on the Applicant's own disclosure. Respectfully, at a minimum the use of the disclosure evidences the use of hindsight in establishing the rejection. Further, as the instant claim depends from Claim 15, which provides in part, “a trigger engine for estimating a likelihood that the demand for at least one of the multiple time periods exceeds the planned sales volume”, any Official Notice should take into account the function of the decision variables in estimating a likelihood. Such a decision variable, taken in the context of the claims, is not believed to be a fact capable of instant and unquestionable demonstration as being well-known.

Referring to Claim 17; the use variables for different stages of time is not believe to be a fact capable of instant and unquestionable demonstration as being well-known. For example,

Santos refers only to time in a general sense without suggesting definite time periods, much less the claimed periods. Moreover, in view of Claims 15 and 16 from which Claim 17 depends, the determination of the claimed variables as a response to an observed demand is not taught or suggested by the references – the context of Claim 17 distinguishes the claimed variables over any teaching of time in the cited references.

With respect to Claims 12-14, 16, and 17; if the Examiner is relying on personal knowledge to support the findings of what is known in the art, the Examiner must provide documentary evidence in the next Office action if the rejection is to be maintained. Such documentary evidence is respectfully requested.

For the forgoing reasons, the present application, including Claims 1-13 and 15-20, is believed to be in condition for allowance. The Examiner's early and favorable action is respectfully urged.

Respectfully submitted,

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